

## REMARKS/ ARGUMENTS

Claims 6, 8, 9, 11, 16-21 have been cancelled in this Amendment. New claims 22-32 have been added. Claims 4, 7, 10, 12-15 and 22-32 remain for consideration.

**1. The Obvious-Type Double Patenting Issues Have Been Resolved Through The Filing Of Terminal Disclaimers.**

Claims 4, 7, 10, 12-15 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting in light of the claims of US Serial Nos. 10/241,658, 10/281,735, 10/067,010 and 10/200,364.

Applicant, although disagreeing with the examiner's position, has attached a terminal disclaimer over the co-pending '658 application. Further, in US Serial Nos. 10/281,735, 10/067,010 and 10/200,364, the present application has already been subject to a terminal disclaimer, therefore the provisional rejections as to the '735, '010 and '364 applications should be withdrawn as moot.

The terminal disclaimers that have been provided solely in an effort to further prosecution and without prejudice. Applicants point out that these disclaimers have no effect on the actual term of any patent resulting from this application; the patents resulting from each of the disclaimed cases would have expired on the same date as a patent issuing from this application, even in the absence of the disclaimer. In filing these disclaimers, applicant specifically reserves the right to address any double patenting issues in the future. Applicant makes particular note of MPEP 804.02 II and established case law findings of the Federal Circuit, in Quad Environmental Technologies v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991), that the filing of a terminal disclaimer to obviate a rejection based on a non-statutory double patenting is not an admission of the propriety of the rejection. The filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.

**2. Amended Claim 4 Compliant with 35 USC 112**

In light of the cancellation of certain claims, the only remaining rejections relate to the claim 4 and by implication the remaining claims depending on claim 4. Claim 4 was rejected under 35 USC 112, for lack of appropriate punctuation. Claim 4 has been amended to correct this typographical error. As amended, Claim 4, and each claim dependent thereon (Claims 7, 10, 12-15, as well as new dependent claims 22-32) are compliant with 35 USC 112.

The newly added claims 22-32 each depend on an allowed claim, and merely add further limitations to claims in condition for allowance.

**3. Initialed Information Disclosure Statements Requested**

Applicant has received initialed copies of the 1449s accompanying the IDSs filed on 8/1/03 and 5/1/02. However, applicant has not yet received an initialed copy of the 1149 that accompanied the IDS filed on 9/3/02, listing references CB and CC. Copies of these papers as filed with the Patent Office, as evidenced by the stamped postcard, are included herewith in the event that they have been misplaced.

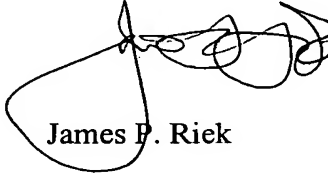
Also accompanying this Response is a further Supplemental IDS. US Patents and US Patent Application Publications have not been included, as allowed under current IDS practice. Legible copies of the remaining references are attached as .pdf/.jpg files on the enclosed compact disk.

**CONCLUSION**

Applicants respectfully assert that the pending claims are inventive and are in a condition for allowance. Applicant requests that a timely Notice of Allowance be issued in this case. If any matters exist that preclude issuance of a Notice of Allowance, the examiner is requested to contact the applicant's representative at the number indicated below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sections 1.16 and/or 1.17, and any necessary extension of time fees, to deposit Account No. 07-1392.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James P. Riek", written over a horizontal line.

Dated: 10 - Nov - 2003

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